

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

| | | |
|--|---|---|
| MONIQUE DA SILVA MOORE, |) | |
| MARYELLEN O'DONOHUE, LAURIE |) | |
| MAYERS, HEATHER PIERCE, and |) | |
| KATHERINE WILKINSON on behalf of |) | |
| themselves and all others similarly-situated, |) | |
| Plaintiffs, |) | Civ. No.: 11-cv-1279 (ALC) (AJP) |
| |) | |
| v. |) | |
| |) | |
| PUBLICIS GROUPE SA and MSL GROUP, |) | |
| |) | |
| Defendants. |) | |

**DEFENDANT PUBLICIS GROUPE SA'S MEMORANDUM IN OPPOSITION TO
PLAINTIFFS' MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT**

Defendant Publicis Groupe SA (“Publicis”) hereby submits this memorandum in opposition to Plaintiffs’ Motion for Leave to File Second Amended Complaint (“Motion for Leave”). Publicis maintains that the Court lacks personal jurisdiction over it. However, Publicis and Plaintiffs are currently engaged in “limited discovery” on the issue of personal jurisdiction. [Dkt. 41, 109]. Subject to and without waiving its position regarding personal jurisdiction, Publicis joins the opposition submitted by MSLGroup Americas, Inc. (“MSL”) and opposes Plaintiffs’ Motion for Leave on the grounds set forth in MSL’s opposition.

Publicis further opposes Plaintiffs’ Motion for Leave to the extent it seeks to add allegations to support Plaintiffs’ arguments regarding the Court’s personal jurisdiction over Publicis. The Court has already determined that any amendment to the Complaint to add allegations regarding personal jurisdiction is unnecessary. On October 7, 2011, Publicis and Plaintiffs submitted a proposed Joint Scheduling Order Regarding Jurisdictional Discovery (attached hereto as Exhibit 1). In the submission, Plaintiffs requested that the final scheduling order include a deadline for Plaintiffs to request “an opportunity to file a Second Amended Complaint based on jurisdictional discovery before Publicis moves to dismiss the claims against it.” Ex. 1 at 3. Publicis and MSL opposed the inclusion of a deadline for moving for leave to amend, arguing that a Second Amended Complaint was neither necessary nor appropriate because “any dispositive motion that Publicis may file based on lack of personal jurisdiction would not rely solely on Plaintiffs’ allegations but would instead incorporate evidence adduced during the limited discovery.” *Id.* The Court rejected Plaintiffs’ proposed language and agreed with Publicis, holding that “[a]mended filings may not be filed except with leave of the Court.” [Dkt. 44] at 2.

Accordingly, Publicis Groupe SA respectfully requests that the Court deny Plaintiffs' Motion for Leave to File Second Amended Complaint.

Dated: March 19, 2012

Respectfully Submitted,

s/ Paul C. Evans

Paul C. Evans

Morgan, Lewis & Bockius LLP

1701 Market Street

Philadelphia, PA 19103

Tel: (215) 963-5000

Fax: (215) 963-5001

E-Mail: pevans@morganlewis.com

Attorney for Defendant Publicis Groupe SA

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of March, 2012, I caused to be served a true and correct copy of Defendant Publicis Groupe SA's Memorandum in Opposition to Plaintiffs' Motion for Leave to File Second Amended Complaint via the Court's electronic filing system on:

Jeremy Heisler
Steven L. Wittels
Deepika Bains
Siham Nurhussein
SANFORD WITTELS & HEISLER, LLP
1350 Avenue of the Americas, 31st Floor
New York, NY 10019

David W. Sanford
SANFORD WITTELS & HEISLER, LLP
1666 Connecticut Avenue, N.W.
Suite 310
Washington, DC 20009

Janette Wipper
SANFORD WITTELS & HEISLER, LLP
555 Montgomery Street, Suite 820
San Francisco, CA 94111

Jeffrey W. Brecher
JACKSON LEWIS LLP
58 South Service Road
Melville, NY 11747

Victoria Woodin Chavey
JACKSON LEWIS LLP
90 State House Square, 8th Floor
Hartford, CT 06103

Brett Michael Anders
JACKSON LEWIS LLP
220 Headquarters Plaza, East Tower, 7th Floor
Morristown, NJ 07960

s/ Paul C. Evans

Paul C. Evans